

GENERAL INFORMATION ABOUT THE CASE	
Case URL	http://www.saflii.org/za/cases/ZACC/2000/19.html
Name of case:	<i>Government of the Republic of South Africa and Others v Grootboom and Others.</i>
Court name:	Constitutional Court
Type of court:	<input checked="" type="checkbox"/> Constitutional Court <input type="checkbox"/> Supreme Court of Appeal <input type="checkbox"/> High Court <input type="checkbox"/> Other
Issue:	Section 26: Housing
Justice(s)/Judge(s)	Yacoob J Chaskalson P, Langa DP, Goldstone J, Kriegler J, Madala J, Mokgoro J, Ngcobo J, O'Regan J, Sachs J and Cameron AJ.
Reference No:	[2000] ZACC 19
Filing No:	CCT 11/00
DESCRIPTION	
Facts:	<p>The Appellants in this matter represent each of the three spheres of government. The first represents national government, the second represents provincial government, and the third and fourth represent the municipal and local sphere of government respectively. The respondent is Irene Grootboom and 510 children and 390 adults living in appalling circumstances at Wallacedene informal settlement.</p> <p>The respondents had illegally occupied nearby land earmarked for low-cost housing but were forcibly evicted: their shacks were bulldozed and burnt and their possessions destroyed. Their places in</p>

	<p>Wallacedene had been filled and in desperation they settled on its sports field and in an adjacent community hall.</p> <p>The owner of the land on which the respondents settled sought an eviction order against them leaving them homeless. The respondents applied to the High Court for an order compelling government to provide them with adequate basic shelter until they obtained permanent accommodation. Although this order was granted, the state did not provide the houses for the respondents. The appellants now appeal that court order.</p> <p>The respondents based their claim on section 26 of the Constitution arguing that they had the right to access to housing and that the government had to make provision for liveable conditions. The court embarked on an endeavour to decipher the meaning of section 26 of the Constitution, how it was to be applied, and to which sphere and arm of government its mandate fell under.</p> <p>All three spheres of government were found to have some role to play in the provision of housing. National government was deemed to be responsible for the allocation of funding for housing, provincial government and local government were said to be more directly responsible in the matter, tasked with direct service delivery.</p>
<p>DECISION/JUDGMENT</p>	
<p>Decision/Judgment:</p>	<p>The Constitutional Court acknowledged that South Africa faces a massive backlog in housing provision and that clearing that backlog was virtually impossible so the state could not reasonably be expected to provide housing for all those in need.</p> <p>The court found that all socio-economic rights were subject to the concept of progressive realisation which meant that the state needs to only provide what it can for its citizens and permanent residents. Furthermore, the state has to be able to prove that it was doing all it could not only through its policies but through its deliverables as well.</p> <p>The court ruled that section 26 does not entitle the respondents to claim shelter or housing immediately upon demand and that therefore the High Court order should never have been made to begin with.</p>

It was therefore held that although the state is required to strive for the attainment of housing for all, it need only show that it took all reasonable steps to provide housing and that would suffice even in instances where people are living in deplorable conditions.

It was found that there are various economic groups which exist in the country and that the government in its policies was to address each of those groups and provide to them what they needed according to what they could afford. Where poor citizens were unable to afford basic services, the government was to step in and provide those at a cost to the state. It was held that the Cape Metropolitan housing policy at the time of these proceedings did not satisfactorily address these discrepancies.



REFERENCES	
Reference(s) to other court decision:	<i>Soobramoney v Minister of Health, KwaZulu-Natal</i> 1998 (1) SA 765 (CC).